

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: Smalley, et al.

Serial No.: 10/635,976

Filed: August 7, 2003

Art Unit: 1754

Confirmation No: 1272

Examiner: Not yet assigned

For: METHOD FOR FORMING AN ARRAY OF SINGLE-WALL CARBON NANOTUBES
IN AN ELECTRIC FIELD AND COMPOSITIONS THEREOF

RECEIVED
DEC 29 2003
OFFICE OF PETITIONS

PETITION UNDER 37 C.F.R. § 1.182

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Reopening Date 02/27/2004 (Mailed 01/03/2004)
Serial Number 10/635,976
Art Unit 1754

Dear Sir:

This petition under 37 C.F.R. § 1.182 is being filed Concurrently with a Response filed in response to the Notice to File Missing Parts of Nonprovisional Application – *Filing Date Granted* issued for the above-specified application on November 20, 2003. This document indicated that the oath or declaration was missing, and that "A properly signed oath or

declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required."

Applicants respectfully submit that copies of both the original Declaration and the Supplemental Declaration were submitted with this application. Enclosed are copies of the Utility Patent Application Transmittal letter that was filed with this application along with a copy of the return receipt post card evidencing receipt of these documents by the PTO. Additionally, as the instant application is a Divisional application of U.S. Serial No. 09/380,545 filed on September 3, 1999, no new Declaration is required. A copy of the Declaration from the prior application is considered sufficient to complete the filing requirements of this application. C.F.R. § 1.63(d)(1)(1) - (iv) MPEP § 201.06(a). However, to avoid abandonment of this application, Applicant has responded to the Notice to File Missing Parts of Nonprovisional Application submitting copies of the filed documents, as well as the \$130.00 fee. Enclosed is a copy of this Response for your reference.

The Petition Fee Under 1.17(h) in the amount of \$130.00 is attached. However, the Director is hereby authorized to debit Deposit Account No. 23-2426 of Winstead Sechrest & Minick P.C. if there are any further fees due under this paper.

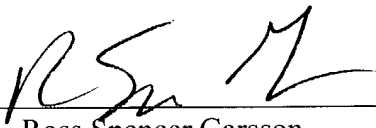
This Petition is being filed to request the refund of both the \$130.00 Missing Parts fee and the \$130.00 Petition fee. Neither of these fees should have been necessary as copies of both Declarations were correctly filed with the Application.

Applicants respectfully request that Applicants' attorney be called at the below listed number if it is believed that such a discussion would be helpful in resolving any problems or questions.

Respectfully submitted,
WINSTEAD SECHREST & MINICK P.C.
Attorneys for Applicants

Date: December 22, 2003

By: _____


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